IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

THURSDAY, THE THIRTIETH DAY OF DECEMBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE B.PRAKASH RAO

WRIT PETITION NO : 8187 of 2001

Between:

Veera Thirupathi, S/o. Venkataiah,
R/o. Mancherami, Thogarrai Post,
Sultanabad Mandal, Krimnagar District.

..... PETITIONER

AND

1 The Industrial Tribunal - Cum - Labour Court,

Rep. by its Presiding Officer,
Godavarikhani, Karimnagar District.
2 The Depot Manager, A.P.S.R.T.C,
Karimnagar -I, Depot., Karimnagar District.

.....RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to call for the records from the first respondent in I.D. No. 86/96 and quash the award passed by the first respondent in I.D. No. 86/96 dated 7/8/2000 published on 4-11-2000 upholding the order of removal passed by the second respondent and grant him the relief of reinstatement into service with continuity of service, full back wages and all other attendant benefits.

Counsel for the Petitioner :MR.A.K.JAYAPRAKASH RAO

Counsel for the Respondent No.1:GP FOR LABOUR(Not present)

Counsel for the Respondent No.2: Mrs.P. Rajini Reddy(Not present)

The Court made the following :

ORDER:

This matter came up yesterday on 29-12-2004, and heard the learned counsel appearing for the petitioner. Since none appeared on behalf of the respondents, the matter was posted to today. Even today also none appears for the respondents.

The petitioner herein, who is an employee/worker, working as a conductor files this writ petition, *inter alia,* seeking to assail the award passed in I.D.No. 86 of 1996 dated 07-08-2000, as published in Gazette on 04-11-2000 as bad, illegal and void.

The facts in brief are that the petitioner joined the service in the year 1989, as conductor and he was sought to be removed by the proceedings dated 28-01-1993, in view of certain allegations made against him. Though he has taken departmental proceedings, the same were not acceded to. Therefore, he raised a dispute under Section.2-A(2) of the Industrial Disputes Act, which was taken up by the respondent No.1 herein, as I.D.No.86/96. The said claim of the petitioner was contested by the respondent No.2 herein, *inter alia,* on various grounds including by raising a specific plea. But the Tribunal held that the departmental enquiry is not valid, and the respondent No.2 - Management is prepared to substantiate the charges made against the petitioner.

However, now the contention of the petitioner is that without giving a finding as to the validity of the departmental enquiry, either preliminary, or even in the final orders, the first respondent sought to reject the dispute holding that the charges, as made against the petitioner are proved. The petitioner by placing reliance on the decision reported in ***"The Cooper Engineering Ltd., v. P.P.Mundhe"***[1] submitted that in the absence of any such finding, as to the validity of the domestic enquiry, the Labour Court could not have been gone into the merits and given the finding. Hence, the writ petition.

Having considered the submissions made and also on perusal of the material, it is seen that admittedly in this case, no finding has been given, as preliminary or even otherwise at any stage nor, there is any consideration in this aspect by the first respondent.

In view of the same, as held by the apex court in the aforesaid decision, the entire procedure adopted by the second respondent is totally in the teeth of mandate as pointed out. In the circumstances, the matter requires to be reconsidered afresh.

The writ petition is accordingly allowed and the impugned award is set aside. The matter is remitted back to the first respondent for fresh consideration and for disposal on merits.

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B. PRAKASH RAO, J.

Dt: 30..12..2004.

Rns/ka.
To

1 The Presiding Officer,
Industrial Tribunal - Cum - Labour Court,

Godavarikhani, Karimnagar District.

2 The Depot Manager, A.P.S.R.T.C,
Karimnagar -I, Depot., Karimnagar District.

3 Two CCs to G.P.for Labour, High Court Buildings,

High Court of A.P., Hyderabad(OUT),

4 Two CD copies.